09-666 12/8/09 [handwritten initials]

Los Angeles County Sheriff's Department

Supervisor's Report on Use of Force

Incident Information

URN: 509-06010-6062-145 | Date: 11/6/09 | Time: 1207

Location: GREEN LINE, HARBOR PASSENGER STATION | City or Station: 11500 S. FIGUEROA STREET, LOS ANGELES

Bureau/Station/Facility: OHS/TSB-SOUTH | Admin. Investigation: YES ☐ NO ☒

Type of Force: SIGNIFICANT - TASER/ O.C. STRAY/ PERSONAL WEAPONS / HOBBLE RESTRAINT

Deputy Injury: YES ☒ NO ☐ | Suspect Injury YES ☒ NO ☐

☐ Call ☒ Observation ☐ Detail ☐ Foot Pursuit ☐ Vehicle Pursuit

IAB Notified: YES ☒ NO ☐ | Person Notified: LT. ALICIA AULT | Emp: [redacted] | IAB Roll Out: YES ☐ NO ☒

Involved Employee

E1

Employee #	Last Name	First Name	Middle Name
[redacted]	DORSTEN	JOHN	P.

Sex	Race	Unit of Assignment	Work Assignment (Unit #, Module, etc.)
☒ Male ☐ Female	W	TRANSIT SERVICES BUREAU SOUTH	606F

Shift		Age	Height	Weight
☐ EM ☒ Day ☐ PM	☒ Regular Shift ☐ OT Shift ☐ Off Duty	[redacted]	504	190

☒ Injured ☐ Treated ☐ Admitted | Hospital: ST. FRANCIS MEDICAL CENTER | Coroner Case #: | Directed Force ☐ | Significant Force ☒

E2

Employee #	Last Name	First Name	Middle Name
[redacted]	[redacted]	[redacted]	[redacted]

Sex	Race	Unit of Assignment	Work Assignment (Unit #, Module, etc.)
☒ Male ☐ Female	H	TRANSIT SERVICES BUREAU SOUTH	606F

Shift		Age	Height	Weight
☐ EM ☒ Day ☐ PM	☒ Regular Shift ☐ OT Shift ☐ Off Duty	[redacted]	505	170

☒ Injured ☐ Treated ☐ Admitted | Hospital: ST. FRANCIS MEDICAL CENTER | Coroner Case #: | Directed Force ☐ | Significant Force ☒

E3

Employee #	Last Name	First Name	Middle Name
[redacted]	[redacted]	[redacted]	[redacted]

Sex	Race	Unit of Assignment	Work Assignment (Unit #, Module, etc.)
☒ Male ☐ Female	W	TRANSIT SERVICES BUREAU SOUTH	606A

Shift		Age	Height	Weight
☐ EM ☒ Day ☐ PM	☒ Regular Shift ☐ OT Shift ☐ Off Duty	[redacted]	510	180

☐ Injured ☐ Treated ☐ Admitted | Hospital: N/A | Coroner Case #: | Directed Force ☒ | Significant Force ☐

☐ Additional Involved Employees

On Duty Supervisor

Emp. #	Last Name	First Name	Middle Name	Rank	Present	Witness to Incident
[redacted]	DOTY	ROBERT	C.	SGT	YES ☐ NO ☒	YES ☐ NO ☒
					YES ☐ NO ☐	YES ☐ NO ☐

Watch Sergeant

Emp. #	Last Name	First Name	Middle Name
[redacted]	GARDNER	DANIEL	C.

Watch Commander

Emp. #	Last Name	First Name	Middle Name
[redacted]	BRANNIGAN	STEVEN	X.

STEVEN BRANNIGAN, LIEUTENANT
Watch Commander (**Print Name**) | [signature] Watch Commander's **Signature** | Emp #: [redacted] | Date: 11-8-09

CONTENTS N. IWATA NOTED

ROBERT C. DOTY, SERGEANT
Supervisor Completing Form: (**Print Name**) | Emp #: [redacted] | Copy Provided to Employee by: | Emp #:

JOHN M. WITT, CAPTAIN
Unit Commander (**Print Name**) | [signature] Unit Commander's **Signature**: | Emp #: [redacted] | Date: 12/4/09

RECEIVED DEC 12 2009 TRANSIT SERVICES HEADQUARTERS

CONTENTS D. FINKELSTEIN NOTED

2D

DISCOVERY Use Only
FO# 2256275

Original: Discovery Unit
Copy: Unit Commander

SH-R-438P (Rev. 12/07)

Supervisor's Report on Use of Force
SUSPECT INFORMATION
5 0 9 - 0 6 0 1 0 - 6 0 6 2 - 1 4 5

Suspect Information

S 1

Last Name: HAYES	First Name: DWIGHT	Middle Name: CHESTER
AKA Last Name:	First Name:	Middle Name:

Sex: ☒ Male ☐ Female	Race: B	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]

Work Phone: NONE	Home Phone: [redacted]	Age: 34	Height: 507	D.O.B. 03/27/75	Weight: 170	Armed? ☐

Booking #: 2120230 Primary Charge Code: 245 (c) P.C. Secondary Charge Code: 69 P.C. Criminal History [redacted]

EMT in attendance? ☒ YES ☐ NO Name: JOHN HOLT Unit: LA CITY FIRE Phone #: 213 485-6257

Hospital Admission? ☐ Rec'd Treatment At: HARBOR GENERAL HOSPITAL Coroner Case #: Mental History ☐

By Doctor: DR. HULBERT Address: 1000 WEST CARSON STREET, TORRANCE Phone #: 310 222-2345

Under Influence: ☐ YES ☐ NO Substance: (SEE NARRATIVE) Mental Illness ☐

Date: 11/06/2009	Time: 1425	Audiotape: ☐	Videotape: ☒	Photos of Injuries: ☐

Suspect Information

S __

Last Name:	First Name:	Middle Name:
AKA Last Name:	First Name:	Middle Name:

Sex: ☐ Male ☐ Female	Race:	Street Address:	City:	State & Zip Code:

Work Phone:	Home Phone:	Age:	Height:	D.O.B.	Weight:	Armed? ☐

Booking #: Primary Charge Code: Secondary Charge Code: Criminal History ☐

EMT in attendance? ☐ YES ☐ NO Name: Unit: Phone #:

Hospital Admission? ☐ Rec'd Treatment At: Coroner Case #: Mental History ☐

By Doctor: Address: Phone #:

Under Influence: ☐ YES ☐ NO Substance: Mental Illness: ☐

Date:	Time:	Audiotape: ☐	Videotape: ☐	Photos of Injuries: ☐

Suspect Information

S __

Last Name:	First Name:	Middle Name:
AKA Last Name:	First Name:	Middle Name:

Sex: ☐ Male ☐ Female	Race:	Street Address:	City:	State & Zip Code:

Work Phone:	Home Phone:	Age:	Height:	D.O.B.	Weight:	Armed? ☐

Booking #: Primary Charge Code: Secondary Charge Code: Criminal History ☐

EMT in attendance? ☐ YES ☐ NO Name: Unit: Phone #:

Hospital Admission? ☐ Rec'd Treatment At: Coroner Case #: Mental History ☐

By Doctor: Address: Phone #:

Under Influence: ☐ YES ☐ NO Substance: Mental Illness ☐

Date:	Time:	Audiotape: ☐	Videotape: ☐	Photos of Injuries: ☐

☐ **Additional Suspects Involved**

Supervisor's Report on Use of Force
EMPLOYEE / NON-EMPLOYEE INFORMATION
509 - 06010 - 6062 - 145

Employee Witnesses

Emp. #	Last Name	First Name	Middle Name

Non-Employee Witnesses

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted]	[redacted]	[redacted]	20	[redacted]

Street Address	City	Zip Code	Work Ph.	Home Ph.
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted]	[redacted]		35	[redacted]

Street Address	City	Zip Code	Work Ph.	Home Ph.
[redacted]	[redacted]	[redacted]	(NONE)	[redacted]

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Work Ph.	Home Ph.

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Work Ph.	Home Ph.

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Work Ph.	Home Ph.

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Work Ph.	Home Ph.

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Work Ph.	Home Ph.

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Work Ph.	Home Ph.

☐ Additional Witness

Method

(AW) Arwen
(BC) Baton: (Control)
(BI) Baton: (Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds: (Control Techniques)
(TT) Control Holds: (Team Takedown)
(TD) Control Holds: (Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device: Hobble (Legs Only)
(TP) Restraint Device: Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hands
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(NO) Nose
(SH) Shoulder
(WR) Wrist

FORCE USED BY		FORCE USED AGAINST		Method (Code)	Type of Injury (Code)	Body Part (Code)
Name	E# or S#	Name	E# or S#			
S/HAYES	S1	DORSTEN	E1	RS/UC	BR/CP/ST	BK/KN/KN
S/HAYES	S1	[redacted]	E2	RS/UC	CP/ST	BK/KN/NK
DORSTEN	E1	S/HAYES	S1	CT	NN	
[redacted]	E2	S/HAYES	S1	CT	NN	
[redacted]	E2	S/HAYES	S1	TR	NN	
DORSTEN	E1	S/HAYES	S1	PH	FR	FA
[redacted]	E2	S/HAYES	S1	OC	CP	FA
HAYES	S1	[redacted]	E2	PK	NN	
[redacted]	E3	S/HAYES	S1	HB	NN	

Supervisor's Report on Use of Force
509-06010-6062-145

Force Applied

TASER/O.C. SPRAY/PERSONAL WEAPONS/HOBBLE RESTRAINT

Incident Details

On November 6, 2009, at approximately 1207 hours, Deputies Dorsten #[redacted]and[redacted] #[redacted]were at the Green Line Harbor Passenger Station checking patrons for valid fare. Deputy [redacted]contacted W/[redacted]to check for valid fare and Deputy Dorsten contacted S/Hayes for valid fare. S/Hayes ignored Deputy Dorsten and continued to walk past him. He asked S/Hayes again for proof of valid fare. S/Hayes said he did not have valid fare and angrily asked, "Why are you stopping me?" After repeated requests for S/Hayes' identification, S/Hayes reluctantly complied and handed Deputy Dorsten his identification.

Deputy[redacted]heard S/Hayes yelling and walked over to them. Deputy Dorsten noticed S/Hayes' hands were shaking and his eyes constantly twitching. Based on S/Hayes' boisterous and nervous behavior, Deputy Dorsten believed S/Hayes was about to run from them. He ordered S/Hayes to sit on the bench. S/Hayes shouted, "Why do I have to sit here?". As S/Hayes began to sit down, Deputy Dorsten noticed both of S/Hayes hands reach to his waistband while he simultaneously hunched over. Based on his nervous behavior, baggy clothing, along with Deputy Dorsten's knowledge of frequently armed gang members riding the trains, Deputy Dorsten ordered S/Hayes to place his hands behind his back in order to conduct a pat down search for weapons.

S/Hayes refused to put his hands behind his back and again reached for his waistband. Fearing he was about to retrieve a weapon from his waistband, Deputy Dorsten immediately grabbed S/Hayes' left wrist and yelled at him to put his hands behind his back. Simultaneously, Deputy[redacted] grabbed his right wrist and forearm area. Without warning, S/Hayes began to force his hands toward his waistband, stood up and began to twist violently. Deputy Dorsten continued to yell at S/Hayes to stop resisting as they attempted to move S/Hayes' hands from his waistband.

As the struggle continued, the deputies lost their balance and fell to the ground with S/Hayes landing on his side. As they fell, Deputy [redacted] lost control of S/Hayes' right arm. S/Hayes momentarily broke free and began to push himself up with his right arm, which was underneath him. Deputy Dorsten grabbed his left arm again and was met with instant resistance as the fight continued. S/Hayes twisted onto his left side as both Deputies Dorsten and [redacted]became increasingly fatigued. Deputy Dorsten began to lose his hold and feared S/Hayes would use this opportunity to retrieve a weapon. Deputy Dorsten told Deputy[redacted]to use his taser.

Deputy[redacted]retrieved his taser, pointed it at S/Hayes and ordered him to stop fighting. S/Hayes continued to fight and ignored his orders. Deputy[redacted]activated the taser, however the taser probes contacted S/Hayes' thick sweatshirt, and did not penetrate his skin. Therefore, the taser had no effect on S/Hayes' violent behavior. S/Hayes continued to fight and twist his body. Deputy [redacted]removed the spent taser cartridge from the taser and began to "dry-stun" S/Hayes. At this

point, Deputy Dorsten saw his portable Sheriff's radio on the ground two feet from him. With his right hand free, Deputy Dorsten retrieved his radio and put out emergency radio information.

S/Hayes continued to fight and twisted his body. S/Hayes moved to a kneeling position as he tried to get up. Deputy Dorsten began to lose his grip and S/Hayes moved his hand toward his waistband. Deputy Dorsten again feared S/Hayes was about to arm himself with a weapon. Due to the taser having no effect, and S/Hayes appearing to be completely impervious to pain, Deputy Dorsten believed S/Hayes was under the influence of phencyclidine (PCP). Deputy Dorsten attempted to get his right arm around S/Hayes' neck area to apply the carotid restraint, however S/Hayes grabbed Deputy Dorsten's right arm and prevented him from doing so.

S/Hayes continued to fight with both deputies. S/Hayes reached up with his right hand and attempted to claw and gouge at Deputy Dorsten's right eye. Deputy Dorsten moved his head away and again tried to use his Sheriff's radio for help. He heard routine traffic and told Deputy [redacted] to request assistance over his radio. Deputy [redacted] was able to put out, "Deputy needs help, deputy needs assistance," on his radio and directed responding deputies to their location.

The fight continued as Deputy [redacted] sprayed S/Hayes in the face with his O.C. (Oleoresin Capsicum) spray for approximately 3-5 seconds. Deputy Dorsten grabbed S/Hayes' right shoulder with his right hand and S/Hayes' left wrist with his left hand. Deputy Dorsten attempted to force S/Hayes' left hand behind his back. Deputy [redacted] tried to force his right hand behind his back to handcuff him. S/Hayes continued to fight and kicked Deputy [redacted] in the arms while trying to pull away. Deputy [redacted] again sprayed S/Hayes with his O.C. spray in the face and mouth. This distracted S/Hayes. From behind S/Hayes, Deputy Dorsten held S/Hayes' chest with his right arm and began to punch S/Hayes on the left side of his face with his left fist. Deputy Dorsten struck S/Hayes approximately 5-6 times.

S/Hayes began to lessen his fight as Deputy [redacted] was able to better control S/Hayes' right arm. Deputy Dorsten attempted to reach behind himself to retrieve his handcuffs. However, he no longer had the strength to open his handcuff case. Deputy [redacted] was able to retrieve Deputy Dorsten's handcuffs. Deputy [redacted] was able to handcuff S/Hayes' right wrist. Deputy Dorsten was able to pull S/Hayes' left hand from his waistband to behind his back and Deputy [redacted] finished handcuffing S/Hayes.

I heard the assistance request and immediately responded to their location. I arrived to the train platform and saw S/Hayes handcuffed on the ground with numerous deputies beside him. I went to both Deputies Dorsten and [redacted] Deputy Dorsten was leaning over and placing most of his weight on a safety rail to support himself. He was sweating, out of breath and his uniform shirt had been pulled out in the front. He was bleeding from both his left elbow and hand. Deputy [redacted] was also sweating and out of breath and appeared disheveled. I confirmed that LA City Fire Department rescue was responding.

My attention was brought to S/Hayes as he began to yell and kick his legs. I ordered Deputy [redacted] to apply the rip hobble restraint to S/Hayes' knees to keep him from kicking. Deputy [redacted] followed my instructions and applied the restraint without further incident.

Sergeant Lavallette #[redacted] accompanied both Deputies Dorsten and [redacted] to St. Francis Medical Center for medical treatment. They were treated by Dr. Robert Flashman for cuts, scrapes and bruises. Additionally, they complained of pain to their backs and necks (see below medical review).

The suspect was transported to Harbor General Hospital and the rip hobble restraint was removed. S/Hayes was given an opportunity to provide a urine sample to prove/disprove the presence of PCP, he refused. He was treated by Dr. Katherine Hulbert (see below medical review). He was given an "ok to book," and transported to the Inmate Reception Center and booked.

I notified Lieutenant Ault from Internal Affairs Bureau regarding the use of force. Internal Affairs Bureau did not respond, however an Internal Affairs Bureau - Mandatory Notification Form was completed and sent to them.

The Watch Commander, Lieutenant Brannigan was notified of the incident.

Reported Use of Force by Involved Employee(s)

All involved personnel completed a written report of their observations and actions, which were consistent with their verbal notification.

Witness Interview(s)

I interviewed [redacted](MH/A, [redacted] on video tape. He witnessed some of the incident. He was very reluctant to talk to me and was very short with his answers. He told me he saw them on the ground and the suspect was resisting. He said the deputies were trying to handcuff the suspect but he kept resisting "trying to make muscles" (Witness [redacted] motioned as if to flex both arms with his fists near his front waistband). He told me after about 5 minutes the suspect began to settle down. He believed everything the deputies did was okay. He said, "The deputies handled what they needed to." Witness [redacted] said he was about ten to twelve feet away from the altercation. He made no further comment.

I also intervie[redacted](FH/A, [redacted] on the telephone. Witness [redacted] had left the area prior to my arrival and she was not available to be video taped. She told me she was on the platform approximately fifteen feet away from the altercation. She saw the deputies talking to the suspect when he quickly and aggressively stood-up toward them. Witness [redacted] said they all started to wrestle on the ground and the taser would not stop the suspect. She said they were fighting for several minutes and the suspect would not stop. The suspect eventually stopped fighting and the deputies handcuffed him. She made no other statements.

Suspect Interview(s)

Suspect Interview(s) Conducted By: ☐ **Watch Commander** ☒ **Supervising Sergeant**

On November 6, 2009, at 1425 hours, I interviewed S/Hayes on video tape at Harbor General Hospital. He was not cooperative during my interview with him. I started the video camera and asked him for his name and date of birth. Instead of responding, he defiently asked me, "Don't you have it?" I asked him again for his name. He looked down and did not answer. I asked him if his name was Dwight Hayes. He responded by saying, "What do you have? You are trying to get me to say stuff! You got everything. I don't need to say anything!" I changed the subject and asked him what happened today on the train platform. S/Hayes said, "The deputies were being aggressive and tased me, that's it." I asked him if the deputies asked him for his fare. He said the deputies asked him for his identification. I asked him if he had valid fare with him. He said, "I wasn't on the train." S/Hayes said he was walking when the deputies asked a lady for her fare and asked him for his identification. The deputies became aggressive and tased him. I asked if he cooperated with the deputies once they had grabbed him. S/Hayes said there was no cooperation and asked how was he supposed to cooperate while he was being tased. S/Hayes had nothing further to say on that issue. When asked about his injuries, S/Hayes complained of pain to his left eye. I noticed his left eye brow and cheek was very swollen.

Medical Review

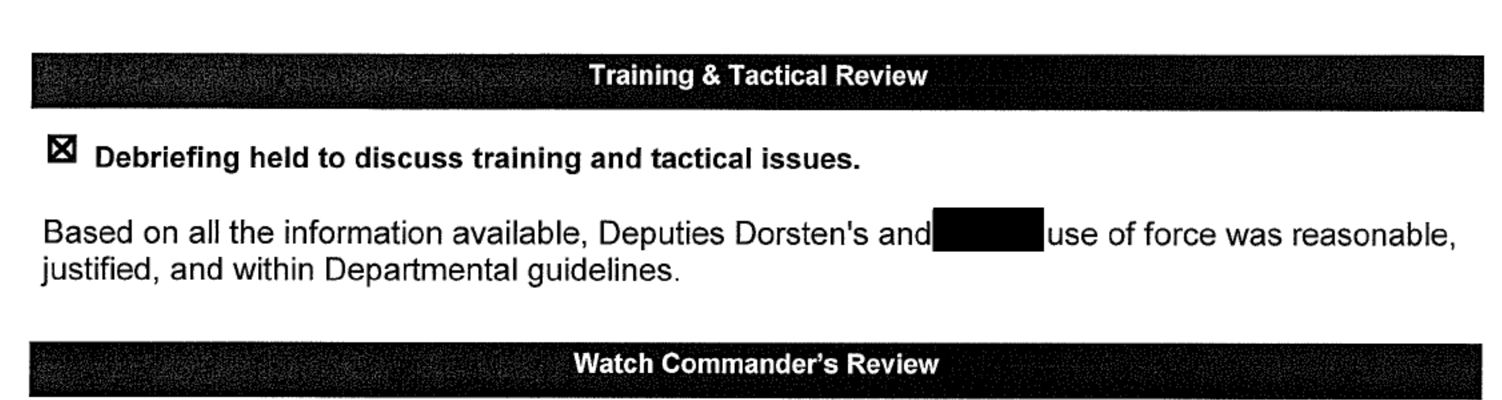
Serrgeant Lavallette #[redacted] accompanied both Deputies Dorsten and [redacted] to St. Francis Medical Center for medical treatment.

Deputy Dorsten had cuts, scrapes and bruises to both knees, left elbow and left hand. He also complained of pain to his lower back and neck.

Deputy [redacted] had a one inch scrape to his left shin and complained of pain to his lower back, neck, head, and knees.

Deputies Dorsten and [redacted] were treated by Dr. Robert Flashman. Besides the above listed trauma, no other significant injuries were found.

S/Hayes was treated by Dr. Katherine Hulbert at Harbor General Hostpital. He was diagnosed with a zygomatic arch fracture and a hematoma to the left eyebrow and cheek. No medication was prescribed and his condition was "good and stable." He was given an "ok to book." He was transported to and booked at the Inmate Reception Center. Dr. Hulbert indicated the suspect's injuries were consistent with the amount of force used.



Training & Tactical Review

☒ **Debriefing held to discuss training and tactical issues.**

Based on all the information available, Deputies Dorsten's and [redacted] use of force was reasonable, justified, and within Departmental guidelines.

Watch Commander's Review

After reviewing the reports submitted by the deputies, the interviews of the witnesses and the CCTV video of the incident, I found that the versions were consistent. S/Hayes was uncooperative and belligerent with the deputies and his actions caused a reaction by them. Additionally, S/Hayes has an [redacted] The fight between S/Hayes and the deputies was violent and lasted several minutes. Had he cooperated with the deputies, this incident would not have occurred.

Based upon Sergeant Doty's inquiry of the incident and the above information, the force used was objectively reasonable, properly reported and within Department policy. I recommend no further action.

Case Status

As of this writing, the case has not been submitted for filing with the District Attorney's office.